

REMARKS**A. Status of the Claims**

Claims 1-5 and 22-25 were pending at the time of the Communication, with claims 2 and 5 being withdrawn from consideration in view of the Restriction Requirement and Applicants' election, without traverse, of the Group I invention, which includes claims 1, 3, and 4 as drawn to a prediction of the existence of tamoxifen-resistant breast cancer and drawn to a method for detecting/diagnosing tamoxifen-resistant breast cancer cells/cancer comprising assaying an obtained sample with antibody binding to TIE-2.

Claim 1 is amended in the Amendment submitted herewith.

Therefore, claims 1-5 and 22-25 are currently pending, with claims 2 and 5 withdrawn from consideration at this time.

B. The Issues Raised in the Communication are Addressed.

The Communication sets forth that the Amendment filed February 24, 2004, was non-responsive because it changed the claims to an invention not previously presented. Applicants understand the Examiner's position in this regard, but do not believe that the amendment to claim 1 did change the nature of the claimed invention. Regardless, in order to speed consideration of this case, Applicants have amended claim 1 back to its original language in the Amendment submitted herewith. Therefore, the Communication is addressed and the claims can be considered in view of the comments made in the Response to the Official Action filed February 24, 2004.

C. Interview Summary.

On May 12, 2004, Applicants' representative Mark B. Wilson conducted a telephonic interview with Examiner Susan Unger, Ph.D. During this interview, the Communication and previous amendment to claim 1 were discussed. Examiner Unger and Mr. Wilson determined

that amending claim 1 back to its original language, as done herein, was an appropriate manner in which to proceed.


Examiner Unger is thanked for her courtesy in this regard.

D. Conclusion

In view of the foregoing, it is believed that all claims are in condition for allowance, and a Notice of Allowance is earnestly solicited. The Examiner is invited to contact the undersigned attorney at 512-536-3035 with any questions, comments or suggestions relating to the referenced patent application.

It is believed that no fees are required by the filing of this Response. However, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct the appropriate fees from Fulbright & Jaworski Deposit Account No.: 50-1212/UTSK:348US.

Respectfully submitted,



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